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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/549,467	04/04/2006	Stefan Stowe	WET 0129 PCT	8328

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EXAMINER

NELSON JR, MILTON

ART UNIT	PAPER NUMBER
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3636

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06/11/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/549,467	Applicant(s) STOWE, STEFAN	
	Examiner Milton Nelson, Jr.	Art Unit 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 March 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 March 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

Applicant's drawing corrections filed March 30, 2008 are approved.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 11-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In line 5 of claim 11, the recitation "facing the passenger" appears to set forth a positive claiming of the passenger. Similarly note lines 6 to 7, which set forth "facing away from the passenger". In line 5 of claim 11, it is unclear what structure is represented by "the first of the cushion". In claim 14, it is unclear if "the function element" is intended to be the same structure as the previously set forth "functional element". In claim 14, the "or" recitation fails to define that which Applicant intends to set forth as the invention. Similarly note claim 22. All remaining claims are indefinite since each depends from an indefinite claim.

Claim Rejections - 35 USC § 102

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 11-13, 15, 16, 18, 19, 22-24, 26, and 27, as best understood with the above cited indefiniteness, are rejected under 35 U.S.C. 102(b) as being anticipated by Fourrey (6291803). Note the cushion core (12), upper air distribution device (3a), lower air distribution device (15), connecting device (13), at least one supporting element in the form of a spring (14) provided in hollow space (17). Also note the base layer (8), intermediate layer (6), cover (4), at least one support element (11), functional elements (27) in the form of an electrical conductor or a heating component, recess in the cushion core (13 is a recess), plurality of sections (7), and liquid-impermeable layer (9).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 14, as best understood with the above cited indefiniteness, is rejected under 35 U.S.C. 103(a) as being unpatentable over Fourrey (6291803) in view of Diemer et al (20040036325). The primary reference shows all claimed features of the instant invention with the exception of the function element being a sensor for detecting

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pressure or temperature. Note the discussion of the primary reference above. The secondary reference teaches providing a function element as a sensor for detecting pressure or temperature. It would have been obvious to one having ordinary skill in the pertinent art to modify the primary reference in view of the teachings of the secondary reference by substituting a pressure or temperature sensor for the function element of the primary reference. Such provides the seating device with a means to enable heating of the seat device.

Claim 17, as best understood with the above cited indefiniteness, is rejected under 35 U.S.C. 103(a) as being unpatentable over Fourrey (6291803) in view of Kochman et al (6229123). The primary reference shows all claimed features of the instant invention with the exception of the at least one heating component comprising a PTC element. Note the discussion of the primary reference above. The secondary reference teaches providing a textile heater with at least one heating component comprising a PTC element. It would have been obvious to one having ordinary skill in the pertinent art at the time of the instant invention to modify the primary reference in view of the teachings of the secondary reference by adding the heating component with PTC characteristics in order to provide temperature self limiting control for the heated seat of the primary reference.

Claims 20 and 21, as best understood with the above cited indefiniteness, are rejected under 35 U.S.C. 103(a) as being unpatentable over Fourrey (6291803) in view

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of Faust et al (5934748). The primary reference shows all claimed features of the instant invention with the exception of the at least a portion of the intermediate layer being routed around the cushion core at a side thereof, from its front side to its rear side, and wherein a conducting device is accommodated in the portion. Note the discussion of the primary reference above. The secondary reference teaches providing a vehicle seat with at least a portion of the intermediate layer being routed around the cushion core at a side thereof, from its front side to its rear side, and wherein a conducting device is accommodated in the portion. It would have been obvious to one having ordinary skill in the pertinent art at the time of the instant invention to modify the primary reference in view of the teachings of the secondary reference by configuring the intermediate layer with at least a portion thereof being routed around the cushion core at a side thereof, from its front side to its rear side, wherein a conducting device is accommodated in the portion. Since both the inner connecting device and the outer connecting device were art-recognized equivalents at the time of the instant invention, one having ordinary skill in the pertinent art would have found it obvious to substitute the inner connecting device for a connecting device that is routed around the seat.

Claim 25, as best understood with the above cited indefiniteness, is rejected under 35 U.S.C. 103(a) as being unpatentable over Fourrey (6291803). Fourrey shows all claimed features of the instant invention with the exception of the essentially liquid-impermeable layer comprising the same material as the cushion core. Note the discussion of the primary reference above. It would have been an obvious matter of

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choice in design, at the time of the instant invention, to modify Fourrey by configuring his liquid-impermeable layer from the same material as the cushion core. It has been held to be within the general skill of a worker in the pertinent art to select a known material on the basis of its suitability for the intended use as a matter of obvious choice in design.

Allowable Subject Matter

Claims 28-30 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments/Arguments

Applicant's response has been fully considered. Remaining issues are described in the above sections. Applicant argues that the primary reference to Fourrey fails to show at least one supporting element in the form of a spring. Fourrey shows this feature at 14. Since this description of Fourrey has not been necessitated by Applicant's amendment, this is considered a new ground of rejection not necessitated by the amendment.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. A vehicle seat related ventilation device is shown in each of

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Ganz et al (6439658), Stowe et al (6619736), Rauh et al (6676207), and Stowe et al (6828528).

This Office action has not been made final since it includes a new ground of rejection not necessitated by Applicant's amendment.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Milton Nelson, Jr. whose telephone number is (571) 272-6861. The examiner can normally be reached on Mon-Thurs, and alternate Fridays, 5:30-3:00 EST.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/Milton Nelson, Jr./
Primary Examiner, Art Unit 3636

mn
June 9, 2008